



## EUROPEAN COMMISSION

*Brussels, 31.1.2019  
C(2019) 751 final*

*Dear President,*

*The Commission would like to thank the Camera dei Deputati for its Opinion on the Proposal for a Directive of the European Parliament and of the Council on unfair trading practices in business-to-business relationships in the food supply chain {COM(2018) 173 final}.*

*This proposal forms part of a broader package of ambitious measures designed to improve the functioning of the food supply chain to help farmers strengthen their position in the market place and help protect them from future shocks. It aims at reducing the occurrence of unfair trading practices in the food supply chain by introducing a minimum common standard of protection across the European Union. The proposed provisions targeting minimum enforcement requirements applying to national competent authorities would add to the deterrent character of the proposed regime.*

*The proposal is currently in the legislative process involving both the European Parliament and the Council. On 19 December 2018 the co-legislators have reached a political agreement on the basis of an extended scope of the Directive. Accordingly, the protection under the Directive applies to suppliers in the food supply chain which have a turnover of up to EUR 350 million. Eight additional practices were added to the ones included in the Commission proposal. Now the European Parliament and the Council will have to endorse the political agreement for the Directive to be formally adopted and enter into force.*

*As regards the comments for change suggested in the Opinion, the Commission would like to share some relevant considerations.*

*In general, the minimum standard approach of the proposed Directive – retained by the co-legislators – enables Member States to integrate the provisions in their national legal orders and to provide, should they so wish, for more ambitious rules governing unfair trading practices subject to otherwise applicable Union law.*

*The Commission's impact assessment shows that unfair trading practices are in particular a problem concerning relationships of weak and strong operators in the food supply chain. The scope of protection consequently focuses on farmers and small to*

*Mr Roberto FICO  
President of the Camera dei Deputati  
Piazza Montecitorio  
IT – 00100 ROME*

*mid-range operators, including their associations. The legal basis is Article 43 of the Treaty on the Functioning of the European Union (agriculture).*

*Introducing a general definition of unfair trading practices could alter the ambition of the proposed Directive. It could – if such a definition were interpreted as constituting a general prohibition of unfair trading practices – de facto induce full harmonisation, as such a rule of European Union law would invite a uniform interpretation in Member States under the ultimate authority of the European Court of Justice. Given that 21 Member States have diverging unfair trading practices regimes and some have none at all, the Commission proposal did not suggest fully harmonising Member States' rules but to introduce a minimum standard of protection. Member States can, as has been stated, provide for stricter or more comprehensive rules. Again, the co-legislators maintained this approach.*

*The Commission considers the ability of associations of producers to submit complaints an important element of effective enforcement, as it can serve to protect the confidentiality of individual complainants. As regards mediation, it has found its place in the Directive as negotiated by the co-legislators.*

*Last but not least, it is worthwhile noting that the Directive will stipulate minimum enforcement powers of the national authorities. The Member States will be free to confer further competences or powers on their authorities, as the Directive's approach is one of minimum harmonisation.*

*The Opinion of the Camera dei Deputati had been forwarded to the relevant Commission services and has been taken into account in the legislative negotiations involving the European Parliament and the Council.*

*The Commission hopes that these comments address the issues raised by the Camera dei Deputati and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Phil Hogan  
Member of the Commission*